

CIVIL SERVICE COMMISSION MINUTES

FEBRUARY 18, 2004

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Marc Sandstrom
Gordon Austin
A.Y. Casillas
Barry I. Newman

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

Approved
Civil Service Commission

March 17, 2004

**COUNTY OF SAN DIEGO
CIVIL SERVICE COMMISSION MINUTES
FEBRUARY 18, 2004**

1:45 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
3, 4, 5, 6, 7			

COMMENTS: Motion by Newman to approve all items not held for discussion; seconded by Casillas. Carried. Commissioner Austin abstained.

**CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.**

A. Commissioner Newman: **Richard Gross**, Intermediate Clerk Typist, appealing an Order of Demotion and Charges (from Accounting Technician) from the Office of Emergency Services.

B. Commissioner Sandstrom: Veronica M. Aguilar, Esq., on behalf of **Robert Aebi**, former Stock Clerk, appealing an Order of Termination and Charges from the Sheriff's Department.

**OPEN SESSION AGENDA
County Administration Center, Room 358**

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and approved by the Commission President.

Vice President Marc Sandstrom announced that the re-election of the Civil Service Commission President and Vice-President will be conducted at the next Civil Service Commission meeting.

MINUTES

1. Approval of the Minutes of the regular meeting of February 4, 2004.

Approved.

CONFIRMATION OF ASSIGNMENT

2. Commissioner Austin: **Guy Munshower**, former Building Inspector II, appealing an Order of Removal and Charges from the Department of Planning and Land Use.

Confirmed.

DISCIPLINES

Findings

3. Commissioner Newman: **Richard Gross**, Intermediate Clerk Typist, appealing an Order of Demotion and Charges (from Accounting Technician) from the Office of Emergency Services.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - dishonesty (misuse of County equipment and resources); Cause II - Failure of good behavior; Cause III - Incompetence (failure to transfer phones to the Sheriff's Communications Center); Cause IV - Inefficiency; Cause V - guilty of acts that are incompatible with or inimical to the Public Service. The Department proved all of the charges contained in its Order. The only contested charges were those under Cause III and the Department presented adequate testimony thereon. Employee did not contest the Department's evidence but, instead, appeared to concede Cause III after hearing the Department's evidence. The Department proved all of the charges contained in the Order of Demotion. Employee is guilty of Cause I, II, III, IV, and V. It is therefore recommended that the Order of Demotion be affirmed; that the Commission read and file this Report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Newman to approve Findings and Recommendations; seconded by Casillas. Carried.

4. Commissioner Sandstrom: Veronica M. Aguilar, Esq., on behalf of **Robert Aebi**, former Stock Clerk, appealing an Order of Termination and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - Dishonesty (untruthful and misleading in handwritten account of his actions); Cause II - Dishonesty; Cause III - Dishonesty (conflicting statements); Cause IV - Dishonesty; Cause V - Conduct unbecoming an employee of the County of San Diego; Cause VI - Failure of good behavior; Cause VII - Failure of good behavior; Cause VIII - Acts with are incompatible with and/or inimical to the public service. The Department proved all of the inconsistencies and contradictions set forth in its charges. Employee was unable to provide plausible explanations for his repeated self-contradictions during the Internal Affairs investigation. The Department proved all the charges contained in the Order of Termination. Employee is guilty of Cause I, II, III, IV, V, VI, VII, and VIII. It is therefore recommended that the Order of Termination and Charges be

affirmed; that the Commission read and file this Report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Sandstrom to approve Findings and Recommendations; seconded by Newman. Carried.

DISCRIMINATION

Findings

5. Commissioner Casillas: **Edward Ewert**, Appraiser II, Assessor/Recorder/County Clerk (ARCC), alleging age discrimination by the ARCC. (See #6 below.)

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on October 22, 2003, the Commission appointed A.Y. Casillas to investigate the complaint submitted by Complainant. Mr. Ewert's complaint also included a Rule X selection process appeal. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that there was no evidence to support Employee's allegation of age discrimination, and that probable cause that a violation of discrimination laws occurred was not established in this matter. It is therefore recommended that this complaint be denied; that the Commission determine that a Rule X selection process hearing is not warranted; that the Commission approve and file this report with the appended OIA Final Investigative Report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Casillas to approve Findings and Recommendations; seconded by Austin. Carried.

Commissioners Newman and Sandstrom stated that they were employed at the same banking institution that Mr. Ewert had been employed in years past. Both Commissioners have no recollection of ever interfacing with Mr. Ewert prior to this discrimination complaint being filed.

SELECTION PROCESS

Complaints

6. **Edward Ewert**, Appraiser II, appealing his non-selection for the classification of Appraiser III by the ARCC. (Held in abeyance pending the outcome of the discrimination investigation listed above. See #5.)

RECOMMENDATION: Take action pending the outcome of Mr. Ewert's discrimination investigation.

Request for a Rule X hearing denied.

COMPULSORY LEAVE

Appeals

7. Stephine M. Wells, Esq., on behalf of **Sue Tiu**, Child Support Officer, appealing Ms. Tiu's placement on Compulsory Leave by the Department of Child Support Services. (Continued from the Commission's February 4, 2004 meeting)

RECOMMENDATION: Grant Request. (See Staff Report for specificity.)

Commissioner Sandstrom requested that his matter be pulled for clarification purposes. Larry Cook, Executive Officer explained that this was a two-part matter: 1) to determine if Ms. Tiu was placed on compulsory leave; and 2) if so, whether the Department properly placed her on compulsory leave. Due to the complexity of these issues, Mr. Cook recommended that this item should be elevated to a hearing setting.

Motion by Newman to accept staff recommendation; seconded by Casillas. Carried. Commissioner Sandstrom appointed.

OTHER MATTERS

Extension of Temporary Appointments

8. Department of Purchasing and Contracting

1 ERP System Function Analyst (Larry Bevers)

9. Department of Animal Services

1 Veterinarian (Bruce Cauble)

RECOMMENDATION: Ratify Item Nos. 8 & 9.

Item Nos. 8 & 9 ratified.

10. Public Input.

ADJOURNMENT: **3:05 p.m.**

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE MARCH 17, 2004.